

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

WAYNE SCOVIL, ET AL.,

PLAINTIFFS

V.

**FEDEX GROUND PACKAGE
SYSTEM, INC. d/b/a FedEx
Home Delivery,**

DEFENDANT

No. 1:10-cv-515-DBH

REPORT OF PRE-FILING CONFERENCE UNDER LOCAL RULE 56

A pre-filing conference was held today via telephone concerning the defendant's intention to move for summary judgment.

We discussed whether there were genuine issues of material fact in dispute or whether the disputes are about the inferences that can be drawn from the facts. The possibility of a stipulated record was discussed. I noted that with a stipulated record the judge decides disputes of fact, including what inferences can be drawn, but when the parties file cross-motions for summary judgment there is a possibility that both motions could be denied because the judge must draw any inference against the moving party. Boston Five Cents Sav. Bank v. Sec'y of Dep't of Housing & Urban Dev., 768 F.2d 5, 11-12 (1st Cir. 1985) (discussing difference between decisions based on cross-motions for summary judgment and those based on a stipulated record). But no

agreement was reached on filing a stipulated record. Instead, the plaintiffs decided to file a cross-motion for summary judgment.

The parties discussed the consecutive and concurrent filing of motions for summary judgment and I directed that in view of the delays the parties shall file simultaneous cross-motions for summary judgment.

The following deadlines were established by agreement:

January 11, 2013, for motions for summary judgment;

February 1, 2013, responses are due;

February 11, 2013, replies are due.

SO ORDERED.

DATED THIS 15TH DAY OF NOVEMBER, 2012

/s/D. Brock Hornby
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE